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In the matter of:

husband and wife.

Peoria, AZ 85382

10603 W. Lone Cactus Drive

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman WILLIAM A. MUNDELL MIKE GLEASON KRISTIN K. MAYES GARY PIERCE

David J. Leyshon d/b/a Leyshon Capital d/b/a Leyshon Capital Management d/b/a Leyshon

Respondents.

Capital Management, LLC and Denise Leyshon,

Arizona Corporation Commission

DOCKETED

FEB -1 2007

DOCKETED BY

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DOCKET NO. S-20490A-06-0764

DECISION NO.

69293

DEFAULT ORDER TO CEASE AND DESIST, FOR RESTITUTION, FOR ADMINISTRATIVE PENALTIES, AND OF REVOCATION AGAINST: DAVID J. LEYSHON d/b/a LEYSHON CAPITAL d/b/a LEYSHON CAPITAL MANAGEMENT, LLC

On December 8, 2006, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing Regarding Proposed Order to Cease and Desist, Order for Restitution, For Administrative Penalties, Of Revocation and for Other Affirmative Action (the "Notice") with respect to David J. Leyshon d/b/a Leyshon Capital Management d/b/a Leyshon Capital Management, LLC (collectively – "Leyshon" or Respondent) and Denise Leyshon ("Mrs. Leyshon"), husband and wife. The Division personally served the Notice upon Leyshon on December 15, 2006. Mrs. Leyshon has requested a hearing and is not the subject of this order.

The Notice specified in bold print that the Respondent had 10 days to request a hearing and 30 days to file an answer. David J. Leyshon did not request a hearing, nor did he file an answer within the required time.

I.

FINDINGS OF FACT

- David J. Leyshon ("LEYSHON") is an individual whose last known address is 10603
 West Lone Cactus Drive, Peoria, Arizona.
- 2. According to his own sworn testimony before the Division, LEYSHON has been doing business as Leyshon Capital Management since at least the year 1999. Leyshon Capital Management is not an NASD member institution, nor an entity authorized to do business in Arizona.
- 3. On August 15, 2003, LEYSHON registered the trade name "LEYSHON CAPITAL" with the Arizona Secretary of State. The Arizona Secretary of State's records show this trade name is registered at 10603 W. Lone Cactus Drive, Peoria, AZ. The public records identify the type of business under this name to be: stock trading, real estate, and rentals. However, no entity with this name is registered to do business in the State of Arizona.
- 4. LEYSHON has also been known to use the name Leyshon Capital Management, LLC with a business address of 10603 W. Lone Cactus Drive, Peoria, AZ 85382. However, no entity with this name is registered to do business in the State of Arizona.
- 5. Although Leyshon Capital Management, LLC, Leyshon Capital Management, and Leyshon Capital are entities not registered to do business in Arizona, to the extent these names were used by LEYSHON in his business transactions, "LCM" may be used to abbreviate and refer to these names interchangeably, singularly or collectively.
- 6. LEYSHON was registered as a securities salesman in Arizona from October 25, 2001 to December 8, 2004 with Synergy Investment Group, LLC ("SYNERGY"). SYNERGY is a registered securities dealer with the State of Arizona.

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- 7. LEYSHON moved to Arizona in or about July of 2003 from North Carolina.
- 8. From July of 2003 to December 8, 2004, LEYSHON was residing in Arizona and employed by SYNERGY.
- 9. On December 8, 2004, LEYSHON was terminated from his employment with Upon termination of his employment with SYNERGY, LEYSHON's registration SYNERGY. status as a securities salesman was automatically suspended. By December 31, 2004 LEYSHON's status as securities salesman in Arizona expired.
- Prior to his termination from SYNERGY and before LEYSHON's status as a 10. registered salesman was suspended or expired, LEYSHON received monies in Arizona from investors in the name of LCM.
- 11. After LEYSHON's status as a registered securities salesman was suspended or expired, LEYSHON continued to accept monies in Arizona from investors and entered into contracts in the name of LCM with investors ("LCM agreements" or "agreements"). In the agreements, LCM was represented to be an investment adviser and was shown as having the same Arizona address as LEYSHON's home address.
- 12. There is no entity registered to do business in Arizona with the name Leyshon Capital Management LLC, Leyshon Capital Management, or Leyshon Capital. Additionally, they are not registered to sell securities or licensed to provide investment advisory services in the State of Arizona.
- 13. The LCM agreements signed by investors affirmatively represented that LEYSHON was an "Investment Adviser." The LCM agreements signed by investors gave LCM authority to purchase and sell investments and by its terms was described as a "long-term investment vehicle." Investors represent that the investments authorized to be purchased and sold pursuant to the agreement were registered securities.
 - 14. Upon information and belief, LEYSHON portrayed himself as an Investment

Adviser, to mislead investors into trusting that he was authorized to sell and buy registered securities.

- LEYSHON has never been registered as an investment adviser in the State of Arizona 15. and at the time the LCM agreements were entered, LEYSHON's registration as a securities salesman in Arizona was either suspended or expired.
- 16. Investors placed at least \$288,000 in LEYSHON's control pursuant to the LCM agreements. The LCM agreements provided that LEYSHON would be paid a percentage of the value of assets under management. LEYSHON affirmed this fee arrangement in statements he has made under oath to the Division.
- LEYSHON admitted under oath that he placed numerous investors funds in an E-17. trade account over which he was the only named title holder and signor on the account.
 - 18. LEYSHON admitted to purchasing stock and stock options for investors in LCM.
- 19. LEYSHON admitted that his personal funds and those of investors were pooled together in an E-trade account. LEYSHON admits that monies from the pooled E-trade account were placed in his personal account and used for personal expenses.
- 20. LEYSHON admitted that he sent investors statements concerning their accounts with LCM. These statements identify that the account statements originated from Arizona. These statements also purport to show the securities purchased on behalf of individual investors.
- LEYSHON was requested by the Division to provide a detailed accounting to show 21. how he kept track of individuals' investments managed by LCM. Although he indicated he would provide these records LEYSHON has failed to do so.
- Investors with LEYSHON have demanded their accounts be closed and their monies 22. be returned. LEYSHON admits that he has been notified of these demands and that investors have not been fully repaid the amount of their investment and that there are outstanding balances owed to them.

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1	23.	On August 23, 2006, the National Association of Securities Dealers ("NASD")
2	entered a de	fault decision barring LEYSHON from associating with any NASD member firm in any
3	capacity in I	Disciplinary Proceeding NO. E3A2004035601.
4		II.
5		CONCLUSIONS OF LAW
6	1.	The Commission has jurisdiction over this matter pursuant to Article XV of the
7	Arizona Cor	nstitution and the Securities Act.
8	2.	RESPONDENT offered or sold securities within the meaning of A.R.S. §§ 44-
9	1801(15), 44	I-1801(21) and 44-1801(26).
10	3.	RESPONDENT violated A.R.S. § 44-1842 by offering or selling securities while
11	neither registered as a dealer or salesman nor exempt from registration.	
12	4.	RESPONDENT violated A.R.S. § 44-1991 by (a) employing a device, scheme or
13	artifice to defraud; b) making untrue statements or misleading omission of material facts, and (c	
14	engaging in transactions, practices or a course of business which operate or would operate as a frauc	
15	or deceit.	
16	5.	RESPONDENT'S conduct is grounds to revoke his registration as a securities
17	salesman with the Commission pursuant to A.R.S. § 44-1962.	
18	6.	RESPONDENT'S conduct is grounds for a cease and desist order pursuant to A.R.S.
19	§ 44-2032.	
20	7.	RESPONDENT'S conduct is grounds for an order of restitution pursuant to A.R.S. §
21	44-2032.	
22	8.	RESPONDENT'S conduct is grounds for administrative penalties under § 44-2036.
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III.

ORDER

THEREFORE, on the basis of the Findings of Fact, and Conclusions of Law, the Commission finds that the following relief is appropriate, in the public interest, and necessary for the protection of investors:

IT IS ORDERED, pursuant to A.R.S. § 44-2032, that LEYSHON, his agents, servants, employees, successors, assigns, and those persons in active concert or participation with him, permanently cease and desist from violating the Securities Act. LEYSHON shall not sell any securities in or from Arizona without being registered in Arizona as a dealer or salesman, or exempt from such registration.

IT IS FURTHER ORDERED that LEYSHON's registration as a securities salesman with the Commission is revoked pursuant to A.R.S. § 44-1962.

IT IS FURTHER ORDERED that pursuant to A.R.S. §§ 44-2032 and 44-1962, that LEYSHON shall pay restitution to investors, shown on the records of the Commission, in the amount TWO HUNDRED AND EIGHTY EIGHT THOUSAND DOLLARS AND 00/100 DOLLARS (\$288,000.000), plus interest at the rate of 10% per annum from the date of this Order until paid in full. Payment shall be made by check or money order payable to the "State of Arizona" and will be placed in an interest-bearing account maintained and controlled by the Commission. The Commission shall disburse the funds on a pro rata basis to investors shown on the records of the Commission. Any restitution funds that the Commission cannot disburse because an investor refuses to accept such payment shall be disbursed on a pro-rata basis to the remaining investors shown on the records of the Commission. Any funds that the Commission determines it is unable to, or cannot feasibly, disburse shall be transferred to the general fund of the State of Arizona.

IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036 that LEYSHON shall pay an administrative penalty in the amount of ONE HUNDRED THOUSAND DOLLARS AND 00/100

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(\$100,000.00). Payment shall be made in full on the date of this Order to the "State of Arizona." Any amount outstanding shall accrue interest at the rate of 10% per annum from the date of this Order until paid in full. The payment obligations for these administrative penalties shall be subordinate to any restitution obligations ordered herein and shall become immediately due and payable only after restitution payments have been paid in full or upon Respondent's default with respect of Respondent's restitution obligations. For purposes of this Order, a bankruptcy filing by LEYSHON shall be an act of default. If LEYSHON does not comply with this Order, any outstanding balance may be deemed in default and shall be immediately due and payable without notice or demand.

IT IS FURTHER ORDERED, that if LEYSHON fails to comply with this order, the Commission may bring further legal proceedings against LEYSHON, including application to the superior court for an order of contempt, to include attorneys fees and costs related to collection.

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Decision No.

1	IT IS FURTHER ORDERED that this Order shall become effective immediately.		
2	BY ORDER OF THE ARIZONA CORPORATION COMMISSION		
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4	CHAIRMAN COMMISSIONER		
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6	Langer Stem Sand Sun		
7	COMMISSIONER COMMISSIONER COMMISSIONER		
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9	IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation		
10	Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the		
11	Capitol, in the City of Phoenix, this /st day of		
12	February, 2007.		
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14	X / MIL		
15	BRIAN C. MCNEIL		
16	Executive Director		
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Ì	DISSENT		
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19	DISSENT		
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21	This document is available in alternative formats by contacting Linda Hogan, ADA Coordinator,		
22	voice phone number 602-542-3931, E-mail lhogan@azcc.gov		
23	(soe)		
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